

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TAMARA LEWIS,

Plaintiff,

v.

GREGORY FISHER, DDS, and KATHLEEN
ANN STOCKMAN, husband and wife,
GREGORY R. FISHER, DDS EMPLOYEE
BENEFIT AND WELFARE PLAN,

Defendants.

Case No. C06-5352RJB

ORDER

This matter comes before the Court on Regence Blueshield 's Motion for Further Clarification as to Other Defendants' Claims Against Regence. Dkt. 64. The Court is familiar with the records and files herein and documents filed in support of and in opposition to said motion.

I. FACTS

On June 21, 2007, this Court entered an order clarifying that the Court's prior May 9, 2007 order did not address the cross claim (Dkt. 21) between Defendants Fisher, Stockman and the Plan and Defendant Regence BlueShield. Dkt. 54. That Order also granted Plaintiff's Motion for Leave to Amend her Complaint. *Id.* Plaintiff filed her Fourth Amended Complaint on June 21, 2007. Dkt.

1 55. No answer has been filed to the Fourth Amended Complaint.

2 Pending before the Court are cross motions for summary judgment between Plaintiff and
3 Defendants Fisher, Stockman and the Plan, both noted for consideration for July 13, 2007. Dkts. 47
4 and 49. Trial in this matter is set for September 4, 2007.

5 Regence Blueshield now moves for clarification as to whether it should be abiding by the case
6 schedule as an active litigant. Dkt. 64, at 2. Regence Blueshield points out that no Answer to the
7 Fourth Amended Complaint has been filed, and Plaintiff does not name it as a Defendant. Regence
8 Blueshield also requests that if the Court finds that an active cross claim is still pending against it, it
9 be given an opportunity to respond to assertions made in the pleadings filed in the two pending
10 summary judgment motions. *Id.*

11 Defendants Fisher, Stockman and the Plan argue that no provision of Fed. R. Civ. P. 13
12 requires that they re-file their cross claim. Dkt. 65. They state that they have no objection to a
13 continuance of the noting date for the motions for summary judgment in order to give Regence
14 Blueshield an opportunity to respond. *Id.*

15 Plaintiff opposes allowing Regence Blueshield an opportunity to be heard on the summary
16 judgment motions. Dkt. 66.

17 **II. DISCUSSION**

18 Fed. R. Civ. P. 15(a) provides that, “[a] party shall plead in response to an amended pleading
19 within the time remaining for response to the original pleading or within 10 days after service of the
20 amended pleading whichever period may be the longer, unless the court otherwise orders.”

21 In an effort to clarify the record in this case, Defendants Fisher, Stockman and the Plan
22 should be given seven days from the date of this order to file an answer to the Fourth Amended
23 Complaint. Moreover, in the interest of fully and fairly considering the merits of the case, the
24 Motions for Summary Judgement (Dkts. 47 and 49) should be renoted for consideration seven days
25 from the date of this order. Regence Blueshield, if it so chooses, may file a responsive pleading to

1 the motions for summary judgment six days from the date of this order. Regence Blueshield should
2 continue to participate as an active litigant in the matter until dismissed.

3 **III. ORDER**

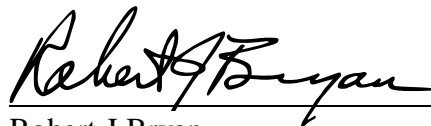
4 Therefore, it is hereby **ORDERED**:

5 Regence Blueshield 's Motion for Further Clarification as to Other Defendants' Claims
6 Against Regence (Dkt. 64) is **GRANTED**:

- 7 • Defendants Fisher, Stockman and the Plan shall be given **seven days** from the date of this
8 order to file an answer to the Fourth Amended Complaint.
- 9 • The Motions for Summary Judgement (Dkts. 47 and 49) shall be **RENOTED** for
10 consideration **seven days** from the date of this order; and,
- 11 • Regence Blueshield, if it so chooses, may file a responsive pleading to the Motions for
12 Summary Judgment **six days** from the date of this order.

13 The Clerk of the Court is instructed to send uncertified copies of this Order to all counsel of
14 record and to any party appearing *pro se* at said party's last known address.

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16 DATED this 17th day of July, 2007.

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19 Robert J Bryan
20 United States District Judge
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